

UNITED STATES OF AMERICA,) Docket No. 19 CR 00226-3
)
Plaintiff,) Chicago, Illinois
) May 23, 2022
v.) 9:44 a.m.
)
ROSALLIE C. CORVITE,)
)
Defendant.)

TRANSCRIPT OF PROCEEDINGS - Change of Plea
BEFORE THE HONORABLE VIRGINIA M. KENDALL

APPEARANCES: (Via WebEx Videoconference)

For the Government: UNITED STATES ATTORNEY'S OFFICE by
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1 (Proceedings had via videoconference.)

2 THE CLERK: Good morning. Court resumes session.

3 Case number 19 CR 226, Defendant 3, U.S. versus
4 Rosallie Corvite.

5 Please introduce yourself, starting with the
6 United States.

7 MR. NETOLS: Good morning. Brian Netols on behalf of
8 the United States.

9 THE COURT: Good morning.

10 MR. WHITNEY: Good morning, your Honor. Doug Whitney
11 for Ms. Corvite, who is present on the WebEx.

12 THE COURT: Good morning, Ms. Corvite.

13 Can you turn on your video?

14 THE DEFENDANT: Good morning, your Honor.

15 THE COURT: Good morning.

16 Okay. It's my understanding, Ms. Corvite, that you
17 intend to plead guilty today. And I have a plea agreement in
18 front of me that has been signed, I believe, by you and your
19 attorney.

20 In order for me to accept a plea of guilty, I need to
21 ask you some questions about your health, your well-being, and
22 your education so that I can determine if you are competent to
23 enter the plea. So I'm going to place you under oath, so
24 please raise your right hand.

25 Do you swear that the answers to my questions will be

1 the truth, the whole truth, and nothing but the truth, so help
2 you God?

3 THE DEFENDANT: Yes, your Honor.

4 (Defendant sworn.)

5 THE COURT: Okay. Ms. Corvite, how old are you?

6 THE DEFENDANT: Forty-six.

7 THE COURT: What's your highest level of education?

8 THE DEFENDANT: Bachelor's degree in (indecipherable).

9 THE COURT: In what?

10 THE DEFENDANT: Bachelor's degree in accounting.

11 THE COURT: Oh, in accounting. Okay. All right.

12 Have you ever suffered from any serious medical
13 conditions?

14 THE DEFENDANT: No, your Honor.

15 THE COURT: Do you take any medicines on a regular
16 basis?

17 THE DEFENDANT: No, your Honor.

18 THE COURT: Have you ever suffered from a mental
19 health condition?

20 THE DEFENDANT: No, your Honor.

21 THE COURT: Have you ever taken medication for mental
22 health?

23 THE DEFENDANT: No, your Honor.

24 THE COURT: Okay. Have you had any alcohol in the
25 last 24 hours?

1 THE DEFENDANT: No, your Honor.

2 THE COURT: Have you had any drugs in the last 24
3 hours?

4 THE DEFENDANT: No, your Honor.

5 THE COURT: Okay. Ms. Corvite, I have in front of me
6 a 23-page document. And it's entitled "Plea Agreement" in
7 United States versus America -- excuse me, United States of
8 America versus Ms. Corvite.

9 Have you reviewed this document with your attorney?

10 THE DEFENDANT: Yes, your Honor.

11 THE COURT: When you were reviewing it with him, did
12 you ask him questions about it?

13 THE DEFENDANT: Yes, your Honor.

14 THE COURT: And when you were talking with him, did he
15 explain things to you such as the difference between the
16 sentencing guidelines versus the maximum penalties under the
17 law?

18 THE DEFENDANT: Yes, your Honor.

19 THE COURT: Okay. And he answered those questions
20 when you had them, right?

21 THE DEFENDANT: Yes, your Honor.

22 THE COURT: Okay. Do you think you had enough time to
23 review this document?

24 THE DEFENDANT: If I had enough time?

25 THE COURT: Yes, did you have enough time?

1 THE DEFENDANT: Yes. Yes, your Honor.

2 THE COURT: Do you want any more time to review it?

3 THE DEFENDANT: No, your Honor.

4 THE COURT: Okay. Are you satisfied with
5 Mr. Whitney's representation?

6 THE DEFENDANT: Yes, your Honor.

7 THE COURT: Okay. Mr. Whitney, any reason to question
8 her competence, sir?

9 MR. WHITNEY: No, Judge.

10 THE COURT: Okay. Any reason, Mr. Netols?

11 MR. NETOLS: No, your Honor. I've had the opportunity
12 to speak with Ms. Corvite extensively on a number of occasions.
13 I have no reason to believe she's not competent.

14 THE COURT: Okay. All right. I'm going to accept
15 your plea of guilt -- I'm sorry. Why did I even say that? I'm
16 going to find that you are competent to enter into this plea
17 agreement -- must be a Monday morning, right -- I'm going to
18 find you are competent to enter into this plea.

19 And now let's return to the document.

20 So you've been charged in the fourth superseding
21 indictment in this case, in Counts 1 and 2, with conspiracy to
22 commit offenses against the United States.

23 And you've also been charged with making false entries
24 in the books of a financial institution. That's Counts 5 and
25 6.

1 And this plea agreement has you pleading guilty to
2 Count 1. That is one of those conspiracy charges.

3 Do you understand that?

4 THE DEFENDANT: Yes, your Honor.

5 THE COURT: Okay. Now, that conspiracy charge has a
6 maximum penalty of five years in prison.

7 It carries a maximum fine under the law of \$250,000 or
8 twice the gross gain or the gross loss, whichever one is
9 greater.

10 And also a term of supervised release of not more than
11 three years.

12 There's also restitution that is ordered by the Court.

13 And a \$100 special assessment.

14 Now, under the law, that's the highest penalty that
15 you can receive by pleading guilty today.

16 Do you understand that?

17 THE DEFENDANT: Yes, your Honor.

18 THE COURT: Okay. But, here, we also do something --
19 we make a calculation under what we call the sentencing
20 guidelines. Those are not mandatory, but they must be taken
21 into account prior to sentencing you.

22 So the way the sentencing hearing will work is that we
23 will calculate a sentencing guideline calculation. That will
24 give me an advisory range of a sentence for your conduct. And
25 then I'll turn to the 3553 factors under the statute. And

1 those factors will include the seriousness of the offense; the
2 need to promote respect for the rule of law; the need to avoid
3 sentencing disparities that are unwarranted; the need to take
4 into account your history and characteristics about you that
5 would include any criminal history and whether you might commit
6 a crime again; also your health, well-being, and other concerns
7 individually about you. And then I fashion a sentence that
8 takes into account all of those factors, and I impose a
9 sentence at that point.

10 Is that your understanding as to how the sentencing
11 hearing will work?

12 THE DEFENDANT: Yes, your Honor.

13 THE COURT: Okay. So let's take a look at those
14 sentencing guideline calculations.

15 The parties used the 2021 manual, which is the most
16 recent manual. And the base offense level pursuant to the
17 theft guideline and the conspiracy guideline is a base offense
18 level of 7.

19 And then it is increased 24 levels because the loss
20 amount is between 65 million and \$150 million.

21 It's increased another two levels because ten or more
22 victims were involved.

23 And another two levels because the offense involved
24 sophisticated means, and you engaged in conduct involving
25 sophisticated means.

1 It's then increased another four levels because it
2 jeopardized the safety and the soundness of a financial
3 institution.

4 Another two levels because you abused a position of
5 trust with Washington Federal.

6 Now, you would receive three levels off for pleading
7 guilty and doing so in a timely fashion.

8 And that means that, when you total all of that up,
9 you get a total offense level of 38.

10 Now, you have no criminal history, so you have a
11 criminal history category of I.

12 And the advisory guideline range is 235 to 293 months
13 in prison, plus that supervised release, any fine and
14 restitution that I might impose, and that \$100 special
15 assessment.

16 Now, the statutory maximum, however, is what you are
17 going to plead to, which is the maximum for a conspiracy. So
18 even though the advisory guideline range has you up at 235
19 months to 293 months in prison, you're pleading only to one
20 count of a conspiracy, which is capped under the law at 60
21 months.

22 Is that your understanding?

23 THE DEFENDANT: Yes, your Honor.

24 THE COURT: Okay. Now, these guidelines are only
25 advisory in nature. And so what will happen is that there will

1 be a probation officer who will draft a report. Your attorney
2 and the government attorney can challenge those. What you need
3 to understand is that this is a preliminary calculation.

4 Is that your understanding?

5 THE DEFENDANT: Yes, your Honor.

6 THE COURT: Okay. But by pleading guilty to the one
7 count, which is capped at five years, that's the maximum
8 penalty that you could receive.

9 Is that your understanding?

10 THE DEFENDANT: Yes, your Honor.

11 THE COURT: Okay. Now, you're also agreeing to fully
12 and truthfully cooperate in any manner in which you're called
13 on to testify for the Northern District of Illinois U.S.
14 Attorney's Office. So it requires that you provide complete
15 and truthful information to any investigation -- criminal,
16 civil, or administrative proceeding -- and it also requires
17 that you postpone your sentencing until all of the other
18 defendants in this case are sentenced.

19 Do you understand that?

20 THE DEFENDANT: Yes, your Honor.

21 THE COURT: Okay. Now, at the time of sentencing, the
22 government intends to make known to me the extent of your
23 cooperation. And if they believe that you have continued to
24 provide full and truthful cooperation, then they're going to
25 move the Court to depart downward and impose a sentence below

1 the applicable guideline sentence in an amount to be determined
2 at the time of sentencing. Mr. Whitney can recommend any
3 sentence he thinks is appropriate, but the decision to depart
4 from the guidelines rests solely with me.

5 Do you understand that?

6 THE DEFENDANT: Yes, your Honor.

7 THE COURT: So if the government doesn't move the
8 Court for this cooperation departure under the guideline 5K1.1,
9 then both parties will be free to recommend any sentence. And
10 I will sentence you under those factors that I mentioned a
11 little while ago under 3553 as well as the sentencing
12 guidelines without any downward departure. But that does not
13 allow you to withdraw your guilty plea.

14 Do you understand that?

15 THE DEFENDANT: Yes, your Honor.

16 THE COURT: Okay. So I'm not a party to this
17 agreement. This is between you and the government.

18 Do you understand that?

19 THE DEFENDANT: Yes. Yes, your Honor.

20 THE COURT: Okay. Now, regarding restitution, you are
21 going to be obligated to pay restitution. That amount will be
22 determined by me at the time of sentencing, and it will be a
23 part of the judgment and conviction order. It will be together
24 jointly held with your co-defendants in this case.

25 Is that your understanding?

1 THE DEFENDANT: Yes, your Honor.

2 THE COURT: Now, your attorney is going to reserve the
3 right to argue that restitution should be apportioned, meaning
4 that you should only get a portion of that restitution amount.

5 Do you understand that?

6 THE DEFENDANT: Yes, your Honor.

7 THE COURT: Okay. Now, as far as the sentence that
8 you're going to plead guilty to, this Count 1, at the time of
9 sentencing, the government intends to move to dismiss the
10 remaining counts against you in the fourth superseding
11 indictment and also move to get rid of the forfeiture
12 allegation.

13 Is that your understanding?

14 THE DEFENDANT: Yes, your Honor.

15 THE COURT: Okay. They get rid of all of the other
16 superseding indictments also.

17 All right. Let's talk about your trial rights because
18 that's the most important thing that you need to understand
19 today as far as your trial rights that you would be waiving.

20 You do have a right to have a trial by a jury of your
21 peers. You have a right to be represented at trial by an
22 attorney. And you have a right to have a speedy trial. And if
23 you wanted to do so, we could set that trial. In fact, we have
24 a trial date coming up that we could set a trial for you if you
25 wanted.

1 Now, today, if we were to begin a trial, the way that
2 it would work is that I would call in random individuals to sit
3 as prospective jurors on your case, and I would ask those
4 jurors whether they could be fair and impartial. That's what I
5 would want to know, and I would ask them different questions to
6 find that out.

7 If their answers to my questions showed that they
8 could not be fair or they could not be impartial, then I would
9 strike them for cause. Also during this process, both your
10 attorney and the prosecuting attorney would have what we call
11 peremptory challenges. Those are a handful of strikes that
12 they can use strategically to strike prospective jurors, and
13 they can do that so long as they don't do so in a
14 discriminatory way. So only after we all agreed on the 12
15 individuals who would sit as the jury on your case would I
16 swear them in, I would tell them that you're innocent until
17 proven guilty, and that it remains the government's burden to
18 prove you guilty beyond a reasonable doubt.

19 So the government would start its case-in-chief, and
20 they would call witnesses and they would put on evidence in
21 order to meet that burden. And during this process,
22 Mr. Whitney could cross-examine those witnesses because you
23 have a constitutional right to confront the accusers against
24 you. Also he might challenge the evidence by using the Federal
25 Rules of Evidence. He might say, for example, something is not

1 relevant or that something is overly prejudicial, and I would
2 make those evidentiary calls using the Federal Rules of
3 Evidence.

4 Now, once the government completed its case-in-chief,
5 I would turn to you and I would say, "Do you want to put on a
6 case?" And, of course, you wouldn't have to because the
7 government would still have the burden to prove you guilty
8 beyond a reasonable doubt, so you could do nothing if you
9 wanted to. However, if you wanted to put on a case, you could.
10 You could call witnesses. You could testify. You could bring
11 in evidence. And if Mr. Whitney needed help getting that
12 evidence or those people here into the courtroom, I would issue
13 trial subpoenas to help him get those people and that evidence
14 here to court.

15 Also if you chose in this process not to testify, I
16 would tell the jury that they could make no inference of guilt
17 based upon you not testifying because you also have an absolute
18 right not to incriminate yourself.

19 Now, only after the entire trial process was completed
20 and the jury went into the jury room and deliberated and
21 reached the conclusion that you're guilty of Count 1 of the
22 fourth superseding indictment would I enter a judgment of
23 guilt. But today if you plead to this plea agreement, you're
24 waiving all of those trial rights.

25 Do you understand that?

1 THE DEFENDANT: Yes, your Honor. Yes, your Honor.

2 THE COURT: Okay. Now, as far as the appellate rights
3 are concerned, you're waiving all appellate issues that might
4 have been available if you had exercised your right to trial,
5 and also acknowledging that you have the right to appeal your
6 conviction. If the government makes that motion for downward
7 departure pursuant to 5K1.1, then you're also waiving your
8 right to appeal your conviction and any pretrial rulings by the
9 Court and any part of the sentence, and that even includes the
10 order of restitution, and that's because of the concessions
11 that the government would make in that 5K1 departure.

12 Do you understand that?

13 THE DEFENDANT: Yes, your Honor.

14 THE COURT: Now, if the government makes the motion
15 for downward departure, you're also waiving your right to
16 challenge your conviction and sentence in any future, what we
17 call collateral attack or future challenge. That's a motion
18 that we call a habeas petition, maybe you've heard the term, or
19 one pursuant to Title 28, United States Code, 2255. Now, that
20 waiver doesn't apply to a claim of involuntariness or
21 ineffective assistance of counsel. And it also won't prohibit
22 you from seeking a reduction of your sentence if there's a
23 change in the law that is directly applicable to you and it has
24 been made retroactive by Congress or the Supreme Court or the
25 Sentencing Commission.

1 Is that your understanding?

2 THE DEFENDANT: Yes, your Honor.

3 THE COURT: Okay. Now, this is a public document. It
4 will be filed in the public record.

5 Do you understand that?

6 THE DEFENDANT: Yes, your Honor.

7 THE COURT: Is anyone forcing you today to do this,
8 Ms. Corvite?

9 THE DEFENDANT: No, your Honor.

10 THE COURT: Are you making this decision to plead
11 after talking with your attorney, judging all of the facts and
12 circumstances, and you reached this decision voluntarily?

13 THE DEFENDANT: Yes, your Honor.

14 THE COURT: Okay. I'm going to turn then to
15 Mr. Netols and have him tell me the evidence that he believes
16 will show that you're guilty beyond a reasonable doubt.

17 MR. NETOLS: Yes, your Honor.

18 If this case were to proceed to trial, the
19 government's evidence would be in the form of the records of
20 Washington Federal, including the (indecipherable) records and
21 in particular also the email records of Washington Federal, the
22 testimony of the other employees of Washington Federal
23 (indecipherable) and the admissions of Ms. Corvite.

24 What the evidence would show is that she became
25 employed by the bank in approximately 2003. And by 2011, she

1 was the Chief Financial Officer who was responsible for
2 maintaining the bank's ledger and for any financial reports
3 including the --

4 THE COURT: Hold on, Mr. Netols. I think Gayle had
5 some trouble just then.

6 COURT REPORTER: You're breaking up just a little bit,
7 Mr. Netols.

8 The last thing I heard was: "She was the Chief
9 Financial Officer who was responsible for maintaining the
10 bank's ledger and for any financial reports, including the."

11 MR. NETOLS: I'm going to go closer. Is it better if
12 I'm closer? Because before I think it was problematic. Is it
13 better now?

14 THE COURT: Yes.

15 MR. NETOLS: Okay. All right. She was responsible
16 for preparing these financial reports, including call reports
17 and reports -- information to auditors and consultants and
18 regulators.

19 And our evidence would show that Ms. Corvite was
20 actually -- she was trained by John Gembara. Her primary
21 experience was based on Mr. Gembara's instruction.

22 We would also show, based on the records of the
23 Federal -- Federal Deposit Insurance Corporation that the FDIC
24 had insured Washington Federal at least as far back as 1989,
25 and that had basically oversight, in addition to providing the

1 insurance, there was some oversight, and the FDIC relied on
2 things, including the call reports, to assess the bank's
3 performance.

4 We'd also prove that in approximately 2011, Washington
5 Federal was being supervised by The Office of the Comptroller
6 of the Currency. And that was in the form of basically
7 examinations in which the OCC would rely on and review
8 documents, including the call reports, trial loan balances,
9 which are supposed to disclose the actual condition of the
10 bank, including delinquencies, and complying with lending
11 limitations and the actual loan histories, and that the OCC
12 would also look at the documents generated by third parties,
13 including consultants.

14 The evidence would show that by about 2011 through
15 when the bank closed, Ms. Corvite was involved in a conspiracy
16 to essentially embezzle money from the bank and then conceal
17 those embezzlements with false documentations.

18 Her role was primarily just falsifying documents and
19 records that would conceal that money was being embezzled from
20 the bank.

21 And to be clear, Ms. Corvite didn't receive any of the
22 money that was embezzled from the bank. Her only compensation
23 was her salary.

24 Essentially, what the evidence would show -- and,
25 again, through her admissions and the testimony of others -- is

1 that over a long period of time, Ms. Corvite was basically
2 being instructed by Mr. Gembara to falsify records, and that,
3 while initially the changes could have been interpreted as
4 basically corrections of records, it became clear over the time
5 because the corrections were always consistent with the written
6 records of the bank and always to the benefit of the bank that
7 Mr. Gembara was instructing her to falsify records.

8 In particular, the evidence would show, with respect
9 to the records that were being provided by consultants, that
10 one of the consultants, Consultant A, would need -- would be
11 reviewing records showing the maturity dates of loans, and
12 because, of course, what the evidence would show is that these
13 loans were essentially not really loans, they were
14 documentations to basically conceal embezzlements. These loans
15 were never maturing. And so the maturing dates would always
16 have to be altered to conceal the embezzlements, in particular
17 the embezzlements to Mr. Kowalski. And that with respect to
18 one of the overt acts that's charged, we would prove that on
19 May 30, 2013, defendant sent consultant an email that falsely
20 represented the maturity dates of a number of loans related to
21 Robert Kowalski.

22 The evidence would also show that there was -- the
23 defendant was involved in providing false information to the
24 FDIC, and that would be in the part of call reports. And,
25 again, the evidence would show, based on defendant's admissions

1 and the testimony of other -- of the cooperating employees in
2 this case, that Mr. Gembara would instruct the defendant to
3 falsify the call reports. And these call reports were
4 falsified in a way to conceal the level of delinquencies to
5 make it appear that, to the extent that loans were delinquent,
6 there was only a couple hundred thousand dollars of delinquent
7 loans, and they were all in the 30- to 90-day range. In
8 reality, the records show that there were many loans that were
9 more than 90 days delinquent, and particularly there were
10 millions of loans -- millions of dollars in loans that were
11 more than 90 days delinquent.

12 Finally, the evidence would show that defendant was
13 involved in providing false information to the OCC, and that
14 was in the form of falsifying a trial balance. And in
15 particular, along with Ms. Mandujano, Ms. Iriondo, and
16 Ms. Torres, she was involved in the creation of false trial
17 loan balances. In particular, the final loan balance that was
18 the trial loan balance that was provided to the OCC in October
19 of 2017, and that those -- that trial loan balance was
20 falsified to basically remove loans that would have more
21 documents -- embezzlement that was being booked by his loans
22 that would reveal the criminal activity at the bank, and that
23 was in particular to change and revise certain loans, change
24 records which would conceal the identities of borrowers, loan
25 balances, payment histories, making it appear that loans were

1 being paid, and in particular omitted documentation relating to
2 purported loans associated with Robert Kowalski,
3 Mr. Kasproicz, Mr. Krejza, Mr. Matczuk, and others.

4 Finally, our evidence would show that in
5 December 2017, the bank failed, and that there was
6 approximately \$66 million in non-performing loans.

7 And in addition to examination of the bank's assets,
8 that the loan -- there was also liability, and there were at
9 least ten account holders, primary CD holders, who had deposits
10 at Washington Federal and suffered losses that were not -- over
11 the insurance limit at the FDIC.

12 THE COURT: Okay. Ms. -- is that it, Mr. Netols?

13 MR. NETOLS: It is, your Honor, yes.

14 THE COURT: Okay. Ms. Corvite, did you hear
15 everything that Mr. Netols just said?

16 THE DEFENDANT: Yes, your Honor.

17 THE COURT: Okay. Anything that he said that you
18 disagree with?

19 THE DEFENDANT: No, your Honor.

20 THE COURT: Okay. Then how do you plead to Count 1 of
21 the fourth superseding indictment?

22 THE DEFENDANT: Guilty, your Honor.

23 THE COURT: All right. I'll accept your plea of
24 guilty. I will hold off on starting the probation officer's
25 report since you have agreed to postpone your sentencing until

1 after the co-defendants. And it's going to be a little while
2 before they are going to be sentenced, so I'll hold off on
3 that.

4 One last thing that I wanted to go over with you.
5 We're here today by WebEx. We're doing all of this by
6 computer. That's because we still have this pandemic occurring
7 and people still getting sick, and we're trying hard to prevent
8 everyone from getting sick.

9 Have you agreed today to do this change of plea by
10 video?

11 THE DEFENDANT: Yes, your Honor.

12 THE COURT: Okay. And did you talk with your attorney
13 about that before you agreed?

14 THE DEFENDANT: Yes, your Honor.

15 THE COURT: Okay. All right then. We will not give
16 you a sentencing date. What I'll do, I think, is just --
17 Mr. Netols will keep me apprised of when to bring you back in.
18 In the meantime, whatever conditions of pretrial release that
19 you're on will be the same conditions until we see each other
20 again. Okay?

21 THE DEFENDANT: Yes, your Honor, okay.

22 THE COURT: Okay. Stay well.

23 THE DEFENDANT: Thank you.

24 THE COURT: Anything else, Mr. Whitney, that I can
25 help you with?

1 MR. WHITNEY: No, your Honor. Thank you.

2 THE COURT: Mr. Netols?

3 MR. NETOLS: No, your Honor.

4 THE COURT: Okay, everyone, have a good day.

5 MR. WHITNEY: You, too.

6 THE DEFENDANT: Thank you. You, too.

7 THE CLERK: Court is in recess until 11:30. You can
8 please log off.

9 (Proceedings concluded at 10:12 a.m.)

10 C E R T I F I C A T E

11 I certify that the foregoing is a correct transcript, to
12 the extent possible, of the record of proceedings in the
13 above-entitled matter, given the limitations of conducting
14 proceedings via videoconference.

15

16

17 /s/ GAYLE A. McGUIGAN
Gayle A. McGuigan, CSR, RMR, CRR
18 Official Court Reporter

March 14, 2023
Date

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